



JUN 07 2005

FOLEY & LARDNER LLP
ATTORNEYS AT LAW11250 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130
P.O. BOX 80278
SAN DIEGO, CALIFORNIA 92138-0278
TELEPHONE: 858.847.6700
FACSIMILE: 858.792.6773
WWW.FOLEY.COM

FACSIMILE TRANSMISSION

Total # of Pages 24 (including this page)

TO:	PHONE #:	FAX #:
Examiner Mary E. Ceperley U.S. Patent and Trademark Office	571-272-0813	571-273-8313

From : Michael F. Hay
Date : April 28, 2005
Client/Matter No : 063391-0202
USSN : 10/049,164
Filing Date : 10/21/2002
User ID No : 9080

Dear Examiner Ceperley:

Further to our telephone conversation today, and as per your request, attached is a copy of the Amendment and Reply Under 37 CFR 1.111 and Amendment Transmittal that we filed on February 17, 2005, in the subject application.

As you suggested, we are also faxing a copy of this filing to 703-872-9306, which is the assigned fax number indicated on the Office Action mailed November 9, 2004.

Respectfully submitted,

Michael F. Hay, Reg. No. 54,155
Attorney for Applicants

If there are any problems with this transmission or if you have not received all of the pages, please call (858) 847-6764.

Operator:	Time Sent:	Return Original To: Rachel Ann Caputo
-----------	------------	------------------------------------------

CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

JUN 07 2005

Atty. Dkt. No. 063391-0202

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Matthew Patricelli

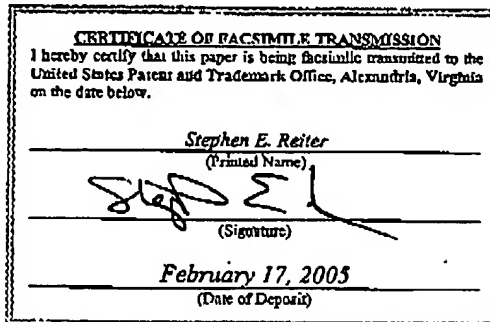
Title: ACTIVITY BASED PROBE
ANALYSIS

Appl. No.: 10/049,164

Filing Date: 10/21/2002

Examiner: M. Ceperley

Art Unit: 1641

**AMENDMENT TRANSMITTAL**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an amendment in the above-identified application.

[X] Small Entity status under 37 C.F.R. § 1.9 and § 1.27 has been established by a previous assertion of Small Entity status.

[X] The fee required for additional claims is calculated below:

	Claims As Amended		Previously Paid For		Extra Claims Present		Rate		Additional Claims Fee
Total Claims:	36	-	36	=	0	x	\$50.00	=	\$0.00
Independent Claims:	5	-	5	=	0	x	\$200.00	=	\$0.00
First presentation of any Multiple Dependent Claims:						+	\$360.00	=	\$0.00
CLAIMS FEE TOTAL									= \$0.00

In re application of
Matthew Patricelli
Application No.: 10/049,164
Page 2 of 3

Atty. Dkt. No. 063391-0202

- ☐ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

<input type="checkbox"/> Extension for response filed within the first month:	\$120.00	\$0.00
<input type="checkbox"/> Extension for response filed within the second month:	\$450.00	\$0.00
<input type="checkbox"/> Extension for response filed within the third month:	\$1,020.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fourth month:	\$1,590.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fifth month:	\$2,160.00	\$0.00
EXTENSION FEE TOTAL:		\$0.00
<input type="checkbox"/> Statutory Disclaimer Fee under 37 C.F.R. 1.20(d):	\$130.00	\$0.00
CLAIMS, EXTENSION AND DISCLAIMER FEE TOTAL:		\$0.00
<input checked="" type="checkbox"/> Small Entity Fees Apply (subtract ½ of above):		\$0.00
TOTAL FEE:		\$0.00

- ☐ Please charge Deposit Account No. 50-0872 in the amount of \$0.00. A duplicate copy of this transmittal is enclosed.

- ☐ A check in the amount of \$0.00 is enclosed.

- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

In re application of
Matthew Patricelli
Application No.: 10/049,164
Page 3 of 3

Atty. Dkt. No. 063391-0202

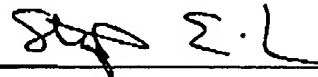
Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date

7/17/05

By



FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6711
Facsimile: (858) 792-6773

Stephen E. Reiter
Attorney for Applicant
Registration No. 31,192

APR. 28. 2005 11:59AM

FOLEY 8587926773

NO. 2689 P. 24 P. 1

* * * COMMUNICATION RESULT REPORT (FEB. 17. 2005 5:56PM) * * *

FAX HEADER 1: FOLEY 8587926773
FAX HEADER 2: FOLEY 8587926773TRANSMITTED/STORED : FEB. 17. 2005 5:50PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

2258 MEMORY TX

G3-2 :

USPTO

OK

23/23

REASON FOR ERROR
E-1) HANGUP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION**FOLEY**FOLEY & LARDNER LLP
ATTORNEYS AT LAW
11250 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130
P.O. BOX 80278
SAN DIEGO, CA 92138-0278
TELEPHONE: 858.847.6700
FACSIMILE: 858.792.6773
WWW.FOLEY.COM**FACSIMILE TRANSMISSION**Total # of Pages 23 (including this page)

TO:	PHONE #:	FAX #:
Examiner M. Ceperley Group Art Unit 1641 Commissioner for Patents	(571) 272-0813	(703) 872-9306

From : Stephen E. Reiter *SR*
 Email Address : sreiter@foley.com
 Sender's Direct Dial : 858.847.6711
 Date : February 17, 2005
 Client/Matter No : 063391-0202
 User ID No : 1877

MESSAGE:

Re: U. S. Patent Application No. 10/049,164

Following are:

- 1) Amendment Transmittal (3 pgs.)
- 2) Amendment and Reply Under 37 CFR 1.111 (19 pgs.)

If there are any problems with this transmission or if you have not
received all of the pages, please call 858.847.6700.

Operator:	Time Sent:	Return Original To: Mercedes F. "Ched" Dipasupil
-----------	------------	-----------------------------------------------------

CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND
 CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT
 COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED
 RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU
 HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE
 IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY
 TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

023.268467.1

Cover Page 1 of 1

FOLEY & LARDNER LLP

PAGE 24/24 * RCVD AT 4/28/2005 2:54:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXXF-1/24 * DNIS:2738313 * CSID: * DURATION (mm:ss):06:42

APR. 28. 2005 11:54AM

FOLEY 8587926773

NO. 2689 P. 2

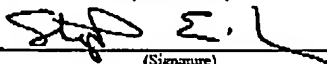
RECEIVED
CENTRAL FAX CENTER

JUN 07 2005

Atty. Dkt. No. 063391-0202

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Matthew Patricelli
Title: ACTIVITY BASED PROBE
ANALYSIS
Appl. No.: 10/049,164
Filing Date: 10/21/2002
Examiner: M. Ceperley
Art Unit: 1641
Conf. No. 6075

<p>CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.</p> <p>Stephen E. Reiter (Printed Name)</p> <p> (Signature)</p> <p>February 17, 2005 (Date of Deposit)</p>

AMENDMENT AND REPLY UNDER 37 CFR 1.111

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Non-Final Office Action dated November 17, 2004, please consider the following amendments and remarks.

Amendments to the Claims are reflected in the Listing of Claims which begins on page 2 of this document.

Remarks begin on page 11 of this document.